ExxonMobil Pipeline Company
22777 Springwoods Village Parkway
Spring, TX 77389
8326246473 Telephone

Rebekah Bennett
General Counsel

ExxonMobil

July 16, 2021

VIA ELECTRONIC MAIL READ RECEIPT REQUESTED

Mr. Gregory A. Ochs
Director, Central Region
Pipeline and Hazardous Materials Safety
Administration
Office of Pipeline Safety
901 Locust Street, Suite 480
Kansas City, Missouri 64106

Re: ExxonMobil Pipeline Company
Request for Hearing
Statement of Issues
CPF No. 3-2021-026-NOA

Dear Mr. Ochs:

This letter serves as a request by ExxonMobil Pipeline Company[1] ("Respondent") for a hearing in response to the Notice of Amendment dated April 8, 2021 (the "NOA"), which was received by Respondent via email [on same date]. By email dated April 29, 2021, the Director, PHMSA Central Region ("Director"), granted an extension of time to respond to the NOA until June 8, 2021. Subsequently, by email dated June 1, 2021, the Director granted an additional extension of time to respond to the NOA, until July 17, 2021. As such, this response is timely.

Pursuant to 49 C.F.R. §§ 190.206(a) and 190.211, Respondent hereby requests a hearing on Item 9 in the referenced case.

Enclosed herewith please find Respondent's Statement of Issues which it submits pursuant to 49 C.F.R. § 190.211(b). Respondent reserves the right to supplement and/or amend its Statement of Issues at or before the hearing.

Respondent requests that said hearing be held at the Central Region office in Kansas City, Missouri but is willing to consider a hearing held by videoconference.

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[1] The subject Notice of Amendment was directed to the Chairman and Chief Executive Officer of Exxon Mobil Corporation; however, ExxonMobil Pipeline Company, a separately incorporated entity, operates the pipeline facilities in question. Thus, ExxonMobil Pipeline Company responds on its own behalf.

Please be advised that Respondent intends to be represented by in-house counsel and outside counsel in connection with the requested hearing. Respondent intends, pursuant to 49 C.F.R. § 190.211(f), to have a court reporter prepare a transcript of the hearing. Respondent will bear all costs of same and will submit a copy of same to the case file.

Respondent respectfully requests that the Presiding Official assigned to this case forbear the setting of the hearing, for at least 45days, to allow the parties a reasonable opportunity to commence discussions towards settlement and/or narrowing the issues. Respondent intends to contact PHMSA Region counsel promptly, and Respondent will work with PHMSA to apprise the Presiding Official of progress in said discussions. For the purposes of efficiency, Respondent requests that any discussion and/or hearing for this NOA be conducted simultaneously with the related case, CPF No. 3-2021-022-NOPV.

As to the remaining Items 1 through 8, Respondent submits the enclosed written response for your consideration.

Thank you for your attention to this matter.

Sincerely,

Rebekah Bennett

Rebekah Bennett
Counsel for Respondent

cc: Daniel Brink (Via Email: daniel.j.brink@exxonmobil.com)
Vince Murchison (Via Email: Vince.Murchison@Pipelinelegal.com)
Roina Baker (Via Email: Roina.Baker@Pipelinelegal.com)

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
WASHINGTON, DC 20590

In the matter of:	§	
ExxonMobil Pipeline Company	§	CPF No. 3-2021-026-NOA
Respondent	§	

STATEMENT OF ISSUES
OF
EXXONMOBIL PIPELINE COMPANY
TO
NOTICE OF AMENDMENT

ExxonMobil Pipeline Company[1] ("Respondent") submits this Statement of Issues pursuant to 49 C.F.R. § 190.211(b) in connection with its request for a hearing pursuant to 49 C.F.R. § 190.206(a).

By letter dated April 8, 2021, the Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued to Respondent a Notice of Amendment (the "NOA"), CPF No. 3-2021-026-NOA, which was received by Respondent via email [on same date]. By email dated April 29, 2021, the Director, PHMSA Central Region ("Director"), granted an extension of time to respond to the NOA until June 8, 2021. Subsequently, by email dated June 1, 2021, the Director granted an additional extension of time to respond to the NOA, until July 17, 2021. By letter of even date herewith, Respondent has requested a hearing in this matter, and this Statement of Issues is served therewith.

BACKGROUND

The subject NOA relates to a PHMSA inspection, conducted pursuant to PHMSA's national level Control Room Management ("CRM") Initiative, which occurred from July 27, 2020 through August 24, 2020. PHMSA's stated purpose of the inspection was to inspect Respondent's "Control Room Operations in Spring, Texas."

In the NOA, PHMSA alleges nine inadequacies attending Respondent's Control Room Management Plan dated January 24, 2020 ("CRM Plan") and directs amendment of certain provisions within the CRM Plan, all pursuant to the procedural and enforcement regulations promulgated at 49 C.F.R. Part 190, Subparts A and B.

[1] The subject Notice of Amendment was directed to the Chairman and Chief Executive Officer of Exxon Mobil Corporation; however, ExxonMobil Pipeline Company, a separately incorporated entity, operates the pipeline facilities in question. Thus, ExxonMobil Pipeline Company responds on its own behalf.

THE ALLEGED INADEQUACIES

Respondent states below its factual, legal and/or regulatory issues that relate to the alleged inadequacies of Item 9 of the NOA.

Item 9 of the NOA relates to the provisions of 49 C.F.R. § 195.446(e)(5) which requires a control room management plan to provide for monitoring of the content and volume of general activity being directed to and required of each controller. PHMSA alleges in Item 9 that Respondent's CRM Plan lacks criteria for determining when a controller has sufficient time to analyze and react to incoming alarms. PHMSA further alleges that Respondent lacks a stated standard for determining when a controller's "general activity" "is acceptable or too high."

Respondent disputes and objects to the allegations stated in Item 9 of the NOA, on the following grounds:

a. PHMSA has failed to meet its burden of proof that the subject provision of Respondent's CRM Plan is inadequate.

b. The alleged inadequacy is not supported by the evidence in the case file.

c. The alleged inadequacy is not supported by the relevant facts.

d. Given the manner in which the cited regulation is being applied in this alleged inadequacy, PHMSA has failed to provide Respondent, or the regulated community as a whole, fair notice of the agency's interpretation of the subject regulation.

e. The content of the PHMSA case file, as related to Respondent by the Director, fails to fulfill the requirements of Section 108 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020; as a result, Respondent is precluded from access to all relevant facts in the agency's possession and thus is denied a full and fair opportunity to respond to the agency's allegations.

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CONCLUSION

At the hearing in this matter, Respondent intends to bring forth evidence in the form of documents and/or witness testimony, as well as to examine the evidence, documents and any witness testimony presented or introduced by PHMSA. Respondent also will present its arguments in support of the issues stated heretofore. Respondent reserves the right to amend and supplement this Statement of Issues at or before the hearing.

COUNSEL FOR RESPONDENT EXXONMOBIL PIPELINE COMPANY

July 16, 2021

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Steven A. Yatauro
President

ExxonMobil

VIA ELECTRONIC MAIL WITH READ RECEIPT REQUESTED

July 16, 2021

Mr. Gregory Ochs
Director, Central Region
Pipeline and Hazardous Materials Safety
Administration
Office of Pipeline Safety
901 Locust Street, Suite 480
Kansas City, Missouri 64106

Re: ExxonMobil Pipeline Company ("Respondent")
Written Response
CPF No. 3-2021-026-NOA

Dear Mr. Ochs:

ExxonMobil Pipeline Company ("EMPCo"), submits this written response to Items 1 through 8 in the above-captioned Notice of Amendment ("NOA").

By letter of even date herewith, Respondent has requested a hearing and submitted a Statement of Issues for the remaining Item 9 of the NOA.

Item 1 – 49 C.F.R. § 195.446(a) – Control room management.

PHMSA alleges EMPCo's Control Room Management Plan, dated January 24, 2020 ("CRM Plan"), was inadequate because it did not provide a process to determine whether a facility is a control room. PHMSA alleges that EMPCo personnel stated that a review of all facilities on an annual basis is conducted to determine whether a facility is a control room by applying a matrix of questions to each facility. PHMSA further alleges that EMPCo completes this exercise each year but does not have the process developed in its CRM Plan. PHMSA finally alleges that EMPCo must amend its procedures to include a written process for how its personnel are to identify facilities as control rooms.

EMPCo respectfully disagrees with the allegations in this Item 1. EMPCo's CRM Plan, used at the time of the inspection, stipulated an annual review process of the CRM Plan, as well as the facility list review, which was conducted "once a calendar year, not to exceed 15 months." This review process was to determine and/or identify any other "control rooms" that must follow regulations under 49 C.F.R. § 195.446, and this process was specifically described as "good" in the *Exxon Mobil PHMSA CRM Verbal Exit Briefing Notes of Inspection Findings,* provided by PHMSA following the subject inspection.

While the regulation does not specifically require a process to determining whether a facility is a "control room," EMPCo has defined "control room" and identified what facilities fall under that definition in consideration of PHMSA's Control Room Management Frequently Asked Questions (FAQs), dated January 16, 2018, specifically FAQ A.20. However, as a result of the subject inspection, EMPCo updated its CRM Plan at the Introduction section, to clarify the determination process, specifically identifying personnel responsible for conducting the annual facility list review and adding the two key criteria questions that identifies and determines a control room:

- "Do facility operators monitor or control outside the fence?"
- "Monitored/controlled via SCADA system?"

Attached hereto as Exhibit A, is the applicable excerpt which highlights the above-mentioned process in EMPCO's updated CRM plan, dated April 21, 2021.

Item 2 – 49 C.F.R. § 195.446(b)(5) – Control room management.

PHMSA alleges EMPCo's CRM Plan was inadequate because it did not contain any statements related to either allowing or disallowing others to have authority to direct or supersede the specific technical actions of a controller. PHMSA alleges that EMPCo's plan includes statements in several sections of its plan that controllers have the authority to shut down the pipeline. PHMSA further alleges that while this is an important aspect under Roles and Responsibilities of a controller, more is needed to have a procedure that is adequate to assure the safe operation of EMPCo's pipelines that are operated by controllers. PHMSA finally alleges that EMPCo's procedure must be amended to clearly identify all the roles, responsibilities and qualifications of others who have the authority to direct or supersede the specific technical actions of controllers; and, alleges that if EMPCo does not allow others to have such authority, EMPCo must amend its procedure to so state.

The CRM Plan used at the time of the inspection contained the statement that controllers have the authority to shut down a pipeline, in accordance with the procedures, if they have a suspicion of an emergency condition. The CRM Plan specifically limits the superseding of the authority of a qualified, on-duty controller to shut down a pipeline during an emergency condition.

However, EMPCo acknowledges the opportunity to improve its procedure, and has added significant detail to the CRM Plan, dated April 21, 2021, regarding the following:

- Defined "consult" and "supersede" in the CRM Plan Definitions section
- Situational circumstances (normal, abnormal, and emergency conditions) under which an individual may make requests of and/or supersede the specific, technical actions of Controller;
- Qualifications of those individuals who may supersede the Controllers' technical actions; and
- How supersedence events should be documented.

Attached hereto as Exhibit B, are the applicable excerpts of the CRM Plan which define "consult" and "supersede," along with Section 1.2, Controller Authority of EMPCO's updated CRM plan, dated April 21, 2021.

Item 3 – 49 C.F.R. § 195.446(c)(2) – Control room management.

PHMSA alleges EMPCo's point-to-point ("P2P") procedures are inadequate to support a thorough evaluation of the point being monitored and controlled from the control room. Specifically, PHMSA alleges that the P2P procedure is vague in its description and guidance on performing a thorough and accurate P2P verification test. PHMSA further alleges that EMPCo's P2P procedure does not provide enough detail to verify mapping of the point through the SCADA system, alarm set points as well as point and alarm attributes.

PHMSA alleges that EMPCo installed a new SCADA system and is designing a new tool for recording P2P verification. PHMSA further alleges that EMPCo's new template for P2P is not adequate to meet the requirements of this section. PHMSA finally alleges that EMPCo must amend its procedures to provide guidance and direction to support a thorough and consistent P2P verification between SCADA displays and related field equipment, when field equipment is added or moved, and when other changes are made to field equipment or SCADA displays.

EMPCo respectfully disagrees with the allegations in this Item 3 given that 49 C.F.R. § 195.446(c)(2) does not explicitly require an operator's P2P process/procedures to include the elements identified as "requirement[s]" in this Item. EMPCo's CRM Plan, used at the time of the inspection, included a process for P2P verification and the circumstances that require P2P verification.

As noted by PHMSA, EMPCo recently upgraded its SCADA system. Engineering and operations personnel collaborated to methodically design, program and incorporate a P2P verification electronic form within the SCADA system with the purpose to thoroughly document relevant information and verify data quality. This documentation feature enables EMPCo to have robust data verification and records retention. The P2P verification form captures the following:

- Verification date and time
- Physical locations
- Verifiers' names – which includes both control room and field personnel
- SCADA values
- Field values
- Alarm values
- Inputs / Outputs and Test commands
- Management of change ID
- Verification reasoning

To ensure thorough stewardship, EMPCo strengthened the P2P verification process by defining the depth and the breadth of P2P requirements for numerous scenarios and providing step-by-step instructions. These improvements were published in the CRM plan in August 2020.

Additionally, EMPCo recently updated the CRM Plan, dated April 21, 2021, to reflect the inspection and current practices associated with the SCADA upgrade. Section 1.11 *Replacement in Kind Point to Point Verification* expands on the verification process for the in-kind equipment changes. EMPCo improved Sections 2.7.1 *Point to Point Verification* and 2.7.2 *Point to Point Process* to reflect the current system and what specific data is to be collected.

Attached hereto as Exhibit C are excerpts of the updated CRM Plan, dated April 21, 2021, that are applicable to the P2P Verification process. Attached hereto as Exhibit D demonstrates and provides guidance as to the applicable P2P scenarios and the step-by-step procedures.

EMPCo continues to review and make enhancements to the P2P process and documentation, as/when warranted.

Item 4 – 49 C.F.R. § 195.446(c)(3) – Control room management.

PHMSA alleges EMPCo's CRM Plan was inadequate because it did not provide enough detail in the internal communication plan for the safe manual operation of the pipeline. Specifically, PHMSA complains of two procedures in the CRM Plan: a single point of failure and a HUB procedure.

PHMSA alleges that the single point failure indicates that the field or interconnects should monitor and call hourly to the controller, but it does not support how the controller is to document this information and incorporate it into the overall operation of the pipeline. PHMSA alleges the HUB procedure enlists a field controls personnel to go to the communications hub point and test the point with a SCADA technician; and, while EMPCo tests the HUB procedure frequently, PHMSA alleges it has never been tested with a controller.

PHMSA finally alleges EMPCo must amend its procedures to provide enough detail in the internal communication plan for the safe manual operation of the pipeline to provide adequate means for the safe manual operation of the pipeline.

EMPCo's CRM Plan, used at the time of the inspection, at Section 1.8 included requirements for controllers to take action up to and including shutting down pipeline systems where single points of communication failure have occurred as well as documenting actions taken and/or periodic field measurements. HUB stations have been phased out of operation with our recent SCADA system upgrade.

According to our updated CRM Plan, dated April 21, 2021, at *Section 2.8 Disaster Recovery Center Testing and Manual Operation of the Pipeline*, EMPCo will periodically conduct communication plan tests, which includes loss of communication. In addition, *Section 2.11 Loss of SCADA communicating testing* is noted, referencing the test and documentation expectations from *Section 1.9 Communication Outage.* Attached hereto as Exhibit E are excerpts of Sections 2.11 and 1.9.

Despite EMPCo's preparedness and readiness to manage a variety of disasters and business continuity scenarios, EMPCO agrees to address in its CRM Plan the very remote possibility of a complete shutdown of the SCADA system, which would require manual operation of its pipelines.

By the end of 2021, EMPCo will update its CRM Plan to incorporate additional details to the manual operations test procedure, taking into consideration the guidance identified in PHMSA's Control Room Management FAQs, dated January 16, 2018, and the guidance provided in this NOA.

Item 5 – 49 C.F.R. § 195.446(c)(5) – Control room management.

PHMSA alleges EMPCo's CRM Plan was inadequate because it did not require the outgoing and oncoming controllers to sign the 12-hour Shift Log at the end of the shift turnover meeting. PHMSA alleges that EMPCo indicated that when the oncoming controller signed in to SCADA, this is the official time and date stamp; however, PHMSA alleges that the procedure does not state this.

PHMSA also alleges that the procedure does not adequately describe what EMPCo considers the official documentation, or "packet," for shift change. PHMSA further alleges it "is difficult to verify" that any of the items defined in American Petroleum Institute Recommended Practice 1168 ("API RP 1168"), Section 5, are incorporated into the shift turnover procedure.

PHMSA finally alleges that EMPCo must amend its procedures to adequately describe what must happen and be documented when a different controller assumes responsibility, including the content of information to be exchanged.

EMPCo respectfully disagrees with the allegations in this Item 5. EMPCo's CRM Plan, used at the time of the inspection, Section 2.11 *Shift Change Procedures,* provided the procedure and expectations regarding shift changes, specified what documents were included in handover documentation and that documentation included signatures of both incoming and outgoing controllers. Additionally, EMPCo's SCADA system automatically records when users log in or out of their accounts. Neither 49 C.F.R. § 195.446(c)(5) nor API RP 1168 explicitly require process elements such as both controllers signing the same document, controller acknowledgement of a time or date, or specific administrative controls, such as SCADA console log-in or access. Further, the *Exxon Mobil PHMSA CRM Verbal Exit Briefing Notes of Inspection Findings*, provided by PHMSA following the subject inspection, acknowledged that time and date with signatures of both controllers on the same document is not required.

Taking into consideration the discussions had during the subject inspection, EMPCo updated its CRM Plan to consolidate the shift change documentation into a single document, known as the Operations Control Center Controller Check List, which requires signatures of both the outgoing and incoming controllers, as well as the date and time when the shift change occurred. Attached hereto as Exhibit F is the Operations Control Center Controller Check List form.

Attached hereto as Exhibit G is an excerpt from the CRM plan, dated April 21, 2021, demonstrating the updates to the procedures under *Section 2.12 Shift Change Procedures.*

Item 6 – 49 C.F.R. §195.446(d)(4) – Control room management.

PHMSA alleges EMPCo's CRM Plan was inadequate because it did not provide information related to shift schedules and Hours of Service ("HOS") for controllers who work under 8-hour shifts. PHMSA alleges that its review of shift schedules identified HOS deviations for controllers who normally work 8-hour shifts. PHMSA further alleges that EMPCo's procedure does not take into consideration maximum HOS in a rolling 7-day period for such shift workers. PHMSA finally alleges that EMPCo must amend its procedure(s) to include information related to the 8-hour shifts worked by qualified controllers in the control room, and provide HOS guidelines encompassing both 8-hour shifts and 12-hour shifts.

EMPCo has incorporated language into its CRM Plan regarding "on-console" and "off-console" time and the hours of service requirements for controllers and shift supervisors who may work 9-hour shifts for part or all of a work set. EMPCo commonly utilizes 9-hour shifts rather than 8-hour shifts, as noted in the NOA.

Attached hereto as Exhibit H are excerpts of the updated CRM plan, dated April 21, 2021, which include the definitions of an "off-console" shift and "on-console" shifts. Exhibit H dated April 21, 2021 also includes Section 3.7 Work Schedule, specifying the hours of service for 12-hour shifts (3.7.1) and 9-hour shifts (3.7.2).

Item 7 – 49 C.F.R. §195.446(e)(2) – Control room management.

PHMSA alleges EMPCo's CRM Plan was inadequate because it did not address the monthly identification, recording, review, and analysis of points that have been taken off scan, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities. PHMSA alleges EMPCo's procedure lacks process detail and there is no mention about how EMPCo manages or monitors forced or manual values in SCADA, which includes the monthly review. PHMSA further alleges that the CRM Plan fails to provide specific guidance to address the requirements of this monthly review. PHMSA finally alleges that EMPCo's procedure must be amended to include the requirements related to points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for period exceeding that required for associated maintenance or operating activities.

EMPCo respectfully disagrees with the allegations in this Item 7 with regard to off-scan and inhibited points, the CRM Plan, used at the time of the inspection, identifies processes for their monthly identification, recording, review and analysis. Additionally, 49 C.F.R. § 195.446(e)(2) does not explicitly require the process elements listed in the allegations in this Item. The regulation only requires that operators' alarm management plans include provisions to identify these types of points on a monthly basis.

EMPCo acknowledges Item 7 with regard to points that generated false alarms or that have had forced or manual values. EMPCo has updated its CRM Plan to include processes for monthly identification, recording, review and analysis of points that have generated false alarms and points that have had forced or manual values. Additionally, a process has been defined in Section 4.8.3 for when forced or manual values are instituted and monitored on a monthly basis, according to Table 4 Alarm Metric Reporting.

Attached hereto as Exhibit I, are excerpts from the updated CRM plan, dated April 21, 2021, demonstrating the updates to the procedures under Sections 4.8.1 through 4.8.3 and 4.8.5, as well as Table 4 Alarm Metric Reporting, which includes off-scans, inhibited alarms, false alarms and forced or manual values.

Item 8 – 49 C.F.R. §195.446(e)(4) – Control room management.

PHMSA alleges EMPCo's CRM Plan was inadequate because it did not state what criteria will be used for determination of effectiveness. PHMSA alleges that EMPCo explained its year end reviews of the results of the Alarm Performance Metrics and modifies the metrics for the following year; but, PHMSA alleges that this process is not described in the procedure. PHMSA alleges EMPCo's procedure discusses revising the alarm system but does not explain what such a review should include. Further, PHMSA alleges that EMPCo's procedure provides that deficiencies identified will be assigned corrective action plans which are to be reviewed and documented; but PHMSA alleges that this documentation is not represented in the procedure. PHMSA finally alleges that EMPCo must amend its procedure to include the criteria and process for the review that would provide a determination of the alarm management plan's effectiveness.

EMPCo respectfully disagrees with the allegations in this Item 8, as 49 C.F.R. § 195.446 (e)(4) does not explicitly require operators to specifically state the criteria that will be used for the determination of the effectiveness of an alarm management plan. The regulation only requires that operators' alarm management plans be reviewed for effectiveness at least once each calendar year, but not to exceed 15 months.

EMPCo's CRM Plan identifies and describes the process for the review of its alarm management plan within the required timeframe. However, to aid in clarity, EMPCo updated its CRM Plan to include metrics that are considered in the annual review of the alarm management plan.

Attached hereto as Exhibit J is an excerpt from the updated CRM plan, published on April 21, 2021, demonstrating the updates to the procedures under Section 4.12.

Please note that Exhibits A - J contain proprietary confidential commercial information that EMPCo keeps private, and same are submitted to PHMSA in expectation of protection from disclosure pursuant to 5 U.S.C. § 552(b)(4) and/or the Critical Infrastructure Information Act of 2002. If any or all documents, including the attached Exhibits, become subject to a FOIA request in the future, EMPCo respectfully requests that PHMSA notify EMPCo and follow the agency's procedures pursuant to 49 C.F.R. § 7.23.

Should you have any questions or require any additional information in regards to the responses above, please contact Caroline Henderson at 832-624-7920 or pipeline.safety.compliance@exxonmobil.com.

Sincerely,

Steven A. Yatauro